



**STATE OF MONTANA  
DEPARTMENT OF CORRECTIONS  
POLICY DIRECTIVE**

Policy No. DOC 1.3.12	Subject: <b>STAFF ASSOCIATION AND CONDUCT WITH OFFENDERS</b>
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 4 and Attachment
Section 3: Human Resources	Effective Date: June 1, 1998
Signature: /s/ Mike Batista, Director	Revised: 03/25/2015

**I. POLICY**

The Department of Corrections requires employees to limit their association with offenders, offender's immediate family members, and close associates of offenders to a professional relationship and maintains zero tolerance for misconduct by its employees toward or with any individual in the custody or under the supervision of the Department.

**II. APPLICABILITY**

All divisions, facilities, and programs Department-owned and contracted, as specified in contract.

**III. DEFINITIONS**

Administrator – The official, regardless of local title (division or facility administrator, bureau chief, warden, superintendent), ultimately responsible for the division, facility, or program operation and management.

Close Associate – Persons, other than immediate family members, who may be considered friends or business partners through known associations.

Department Employee – Means a person employed by the Department of Corrections; this term does not include service providers.

Facility/Program – Refers to any division, prison, secure care correctional facility, correctional or training program, or community-based program under Department jurisdiction or contract. This term includes the facility building or residence, including property and land owned or leased and operated by the Department.

Immediate Family Member – A legal spouse, natural or adoptive parents and children, siblings, grandchildren, grandparents, corresponding in-law, person verified as being primarily responsible for raising the offender in the absence of a parent and any other member of the offender's household.

Mistreatment – Actions that violate the human rights of offenders including unwarranted physical acts and acts that adversely affect offender mental or emotional well-being including abusive treatment such as threats, harassment, cursing, and shouting.

Offender – Any individual in the custody or under the supervision of the Department of Corrections or its contracted service providers. The term includes former offenders for whom less than one year has elapsed since discharge from Department custody or supervision.

Professional Relationship – A staff relationship with offenders maintained through well-defined professional boundaries and the highest ethical standards of honesty, integrity, and impartiality pursuant to the [\*Department of Corrections Code of Ethics\*](#).

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Service Providers - This term includes contracted persons, volunteers, interns, temporary employees, or other vendors providing service whose assignment is primarily on Department premises, e.g. facility or program office.

Sexual Misconduct – Behavior or misconduct as defined in *DOC Policy 1.1.17 Prison Rape Elimination Act (PREA)*.

#### **IV. DEPARTMENT DIRECTIVES**

##### **A. General Requirements**

1. The administrator, or designee, is responsible for ensuring the following:
  - a. Department employees and service providers review and comply with the provisions of this policy;
  - b. offenders under the custody or supervision of the administrator's respective division, facility, or program review and understand the provisions of this policy;
  - c. statistics are collected on the number of reported and substantiated incidents and submit the statistical information annually, in writing, to the Human Resource Bureau (HR Bureau); and
  - d. operational procedures are established and maintain that provide effective policy communication and guidance for the following:
    - 1) confidential reporting procedures regarding alleged staff misconduct toward offenders and availability of these procedures to Department employees, service providers, offenders, visitors, offender's immediate families, and offenders close associates;
    - 2) ensure offenders have the opportunity to promptly file a complaint verbally or in writing using the facility's formal grievance process, if applicable;
    - 3) investigation and response to misconduct allegations as a high priority and as provided in law and Department policies including *DOC 1.3.13 Administrative Investigations*, *DOC Policy 3.1.19 Investigations* and *DOC Policy 1.1.17 Prison Rape Elimination Act (PREA)*; and
    - 4) the requirement that Department employees process grievances regarding staff misconduct toward offenders as a high priority.
2. After consultation with the Office of Human Resources (OHR), Legal Services Bureau, and Department director, an administrator may approve limited exceptions to this policy on a case-by-case basis to allow limited contacts between employees, offenders, offender's immediate family members, and close associates of offenders. Administrators must include documentation of the circumstances supporting the exception and a written plan outlining the permissible contact.
3. Department employees and service providers who violate this policy are subject to disciplinary action, up to and including termination of their employment.
4. Department employees entrusted with confidential records will adhere to requirements outlined in *DOC Policy 1.5.5 Case Records Management* and report breaches of confidentiality appropriately.
5. Department employees and service providers will not retaliate against the complainant, the victim, the accused, the witnesses, or the informants involved in the filing and investigation of misconduct allegation.

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## **B. Required Conduct**

1. Department employees and service providers must exhibit the following conduct:
  - a. maintain a professional relationship with offenders at all times;
  - b. provide offender services without regard to race, color, age, gender, physical or mental disability, marital status, creed, sex, political beliefs, genetic information, veteran's status, culture, social origin or condition or ancestry, national origin, religious preference, or sexual orientation, and will not display favoritism toward, or discrimination against, any offender or group of offenders;
  - c. limit relationships with offenders, offender's immediate family members and close associates to officially authorized activities; and
  - d. avoid conflicts of interest or situations, such as engaging in personal or business relationships, that may compromise professional integrity, compromise security, or cause embarrassment to the Department of Corrections and the State of Montana.

## **C. Prohibited Conduct**

1. Employees who assault, injure, intimidate, threaten, endanger, or withhold reasonable necessities from an offender, or violate any civil right of an offender are subject to felony and misdemeanor criminal penalty as well as disciplinary action, up to and including termination from employment pursuant to *45-5-204, MCA*.
2. Department employees and service providers who commit staff sexual misconduct are subject to felony and misdemeanor criminal penalties as well as disciplinary action up to and including termination from employment as outlined in *45-5-502, MCA* and *45-5-503, MCA*.
3. Department employees and service providers will not engage in inappropriate behaviors with offenders, offender's immediate family members, or close associates; inappropriate behavior includes, but is not limited to, the following:
  - a. using profane, indecent, or discriminatory language or references;
  - b. giving or receiving gifts, favors, or services that exceed Department requirements;
  - c. engaging in any type of business or fiduciary relationship including trading, selling, or buying from an offender excluding purchases in accordance with *DOC Policy 5.5.4 Hobby Programs for Adult Facilities*; and
  - d. interaction that is unnecessary, not a part of the employee's duties, and related to a personal relationship or purpose rather than a legitimate correctional purpose including, but not limited to:
    - 1) engaging in horseplay;
    - 2) socializing;
    - 3) sharing personal information, e.g., family member names, ages, schools, etc.;
    - 4) contacting offender's immediate family members for matters unrelated to the employee's official duties;
    - 5) exchanging written correspondence; or
    - 6) developing a relationship with an offender that is anything other than a professional relationship.

## **D. Department Employee and Service Provider Reporting Requirements**

1. Department employees but must immediately disclose any of the following events to a supervisor and the supervisor must forward notifications to, and consult with, the OHR

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prior to instructing the employee on the appropriate course of action:

- a. intentional or repeated attempts to contact the employee by an offender, an offender's immediate family members or close associates;
  - b. the employee engaged in prohibited conduct described in section IV.C. above; or
  - c. an employee's family member or a close associate has been committed to the custody or supervision of the Department and/or is assigned to the facility/program in which the employee is employed.
2. Department employees and service providers who receive information regarding, or have personal knowledge of, staff misconduct toward offenders including mistreatment, sexual misconduct, or any other prohibited conduct must complete the [Misconduct Mandatory Reporting](#) form and immediately forward copies to the division administrator and OHR.
  3. Department staff, contract employees, and volunteers who know or have reasonable cause to suspect that a youth offender has been abused or neglected must immediately report the matter to the administrator, or designee, and to the Department of Public Health and Human Services as required by 41-3-201, MCA.

#### **E. Offender and Public Reporting Requirements**

1. Offenders or members of the public who have knowledge of alleged mistreatment or sexual misconduct by a staff member toward an offender should immediately report according to the following:
  - a. offenders or members of the public may report to the division administrator, OHR or Department director's office; and
  - b. offenders may utilize the "locked box" formal grievance procedure in accordance with *DOC Policy 3.3.3 Offender Grievance Program* to report allegations and are not required to complete the informal resolution step for sexual misconduct grievances.
2. Offenders or other parties who intentionally submit false reports of violations of this policy may be subject to disciplinary action.

#### **V. CLOSING**

Provisions of this policy not required by statute will be followed unless they conflict with negotiated labor contracts which will take precedence to the extent applicable.

Questions concerning this policy should be directed to the Department's Office of Human Resources.

#### **VI. REFERENCES**

- A. 45-5-204, 45-5-501, 45-5-502, 45-5-503, 45-7-203, 45-7-307; MCA
- B. 4-4069, 4-4281; *ACA Standards for Adult Correctional Institutions, 4<sup>th</sup> Edition*
- C. 3-JTS-1C-23, 3-JTS-3D-06; *ACA Standards for Juvenile Correctional Facilities, 2003*
- D. 4-4084, 4-4084-1, 4-4281-6,7; *2008 ACA Standards Supplement*
- E. *DOC Policies 1.1.17 Prison Rape Elimination Act (PREA); 1.1.13 Administrative Investigations; 1.5.5 Case Records Management; 3.1.19 Investigations; 5.5.4 Hobby Programs for Adult Facilities; Department of Corrections Code of Ethics*

#### **VII. ATTACHMENT**

[Misconduct Mandatory Reporting](#) [Fill-In](#)